

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBERT WITTENBERG, JR.,  
  
Plaintiff,  
  
v.  
  
PUBLIC UTILITY DISTRICT NO. 1 OF  
SKAMANIA COUNTY, et al.,  
  
Defendants.

No. 12-cv-5090-RBL  
  
ORDER  
  
(Dkt. #41, 42, 43, 44)

Both parties have moved for reconsideration of the Court's Order on Summary Judgment (Dkt. #36).

**STANDARD FOR MOTIONS FOR RECONSIDERATION**

Under Local Rule 7(h):

Motions for reconsideration are disfavored. The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence.

The Ninth Circuit has called reconsideration an "extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources." *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (quoting 12 James Wm. Moore et al., *Moore's Federal Practice* § 59.30[4] (3d ed. 2000)). "Indeed, a motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly

1 discovered evidence, committed clear error, or if there is an intervening change in the controlling  
 2 law.” *Id.* (quoting *389 Orange Street Partners*, 179 F.3d 656, 665 (9th Cir. 1999)).

### 3 **PLAINTIFF’S MOTION FOR RECONSIDERATION**

4 Plaintiff asserts that the Court has “overlooked certain factual issues . . . regarding the  
 5 nature and basis of Mr. Wittenberg’s whistleblower claims, and that it misapprehended aspects  
 6 of the governing legal scheme . . . .” (Pl.’s Mot. for Reconsideration at 1, Dkt. #42.)  
 7 Specifically, Plaintiff argues that whether his whistleblower claims were made in good faith is “a  
 8 disputed factual issue hinging directly on the credibility of a witness.” (*Id.* at 2.)

9 The Court must disagree. Under these circumstances, no reasonable juror could conclude  
 10 that Plaintiff’s “whistleblower claims”—complaints asserted against a perceived political rival  
 11 regarding FOIA requests that are clearly legal—were made in “good faith.” The Court therefore  
 12 denies Plaintiff’s Motion for Reconsideration.

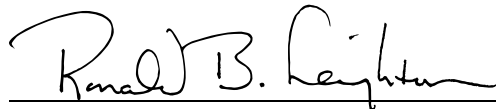
### 13 **DEFENDANT’S MOTION FOR RECONSIDERATION**

14 The Court requests that Plaintiff respond to Defendants’ Motion for Reconsideration  
 15 (Dkt. #44) on the narrow issue of whether Plaintiff is a “policymaking” official and the  
 16 implications of such a designation.

### 17 **CONCLUSION**

18 Plaintiff’s Motion for Reconsideration (Dkt. #42) is **DENIED**. The Clerk is directed to  
 19 **STRIKE** docket number 41. The Court requests Plaintiff’s response to Defendant’s Motion for  
 20 Reconsideration (Dkt. #44) within **10 days**.

21  
 22 Dated this 29<sup>th</sup> day of May 2013.

23 

24 RONALD B. LEIGHTON  
 25 UNITED STATES DISTRICT JUDGE  
 26  
 27  
 28